

05.03.2021
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(adeb)

W.P.A. No. 5089 of 2021

Menaka Maity
Vs.
The State of West Bengal & ors.

Ms. Sanchayita De
... For the petitioner

Ms. Dipanwita Ghosh Chaudhuri
.... For the State

No one appears for the State when the matter is called on for hearing.

Affidavit of service filed in court today is taken on record.

The petitioner's husband was an Assistant Teacher of a Primary School. The petitioner's husband retired from service on 31.07.1997. The petitioner's husband died on 17.02.2011. The first pension payment order was issued on 08.09.1998. Under the ROPA Rules, 1998, there was revision of the pensionary and gratuity amount payable to the petitioner. the revised pension payment order was issued on 08.10.2001 and the revised arrear pension amount was disbursed on 20.11.2001 in terms of ROPA, 1998. The petitioner claims interest on delayed payment of the revised gratuity and arrear pension amount.

There is a considerable delay in filing of the writ petition, which the petitioner seeks to justify by stating

that there is no statutory period of limitation and neither parties have suffered due to this delay. It is the submission of the petitioner that accordingly the petition should be allowed. The petitioner relies upon an order in W.P. 17557 (W) of 2017 (Narayan Chandra Saha Vs. State of West Bengal & Ors.) wherein a co-ordinate bench had relied upon the Supreme Court judgement in the case of Union of India Vs. Tarsem Singh, reported in (2008) 8 S.C.C. 648 on the issue of limitation relating to payment or re-fixation of pay or pension wherein the Apex Court had held that relief may be granted in spite of delay as it does not affect the rights of the third party.

In view of the above and after hearing the learned Counsel for the petitioner, I direct the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal as also the concerned Treasury Officer to pay interest to the writ petitioner @ 8% per annum on the arrear pension and gratuity amount calculated from 01.04.1998 till the date of payment.

Such payment is to be made within a period of eight weeks from the date of communication of this order.

The writ petition is accordingly disposed of without, however, any order as to costs.

Since no affidavit is called for, the allegations made in the writ petition are deemed to have been denied.

Urgent certified website copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Rajarshi Bharadwaj, J.)